

1 UNITED STATES BANKRUPTCY COURT

2 SOUTHERN DISTRICT OF NEW YORK

3 Case No. 15-10324(MG)

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5 In the Matter of:

6
7 CALEDONIAN BANK LIMITED,

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9 Debtor.

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12
13 U.S. Bankruptcy Court

14 One Bowling Green

15 New York, New York

16
17 February 25, 2015

18 2:01 p.m.

19
20 B E F O R E :

21 HON MARTIN GLENN

22 U.S. BANKRUPTCY JUDGE

1 Hearing re: Petitioner's application for a preliminary
2 injunction.

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25 Transcribed by: Jamie Gallagher

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P R O C E E D I N G S

THE COURT: All right, please be seated. We're here in Caledonian Bank Limited, number 15-10324.

MR. RAICHT: Good afternoon, Your Honor, Geoffrey Raicht, Proskauer Rose for the debtor, Caledonian Bank. And I have with me at counsel table my partner Sigal Mandelker and if I may, Your Honor, the gentleman right here is Neil Lupton from the Cayman Island law firm, Walkers, who also represents Caledonian Bank.

THE COURT: Thank you. Anybody else making an appearance?

MR. GLUCK: Warren Gluck, Your Honor, counsel for Saad Investment Company (No. 5) Limited, in liquidation which is an interested party in this case by virtue of its relationship with the Caledonian group.

THE COURT: Okay. Where's the liquidation?

MR. GLUCK: The liquidation is also in Cayman by chance.

THE COURT: Thank you.

MR. RAICHT: Your Honor, we're here on the return date for our preliminary injunction order to which we received no objections. But before we begin I would just like to give the Court a brief update on what has happened in Cayman since the last time we were here.

On the 23rd of this month, I guess two days ago,

1 the Cayman Island Court officially appointed the Ernst &
2 Young parties, Mr. Hutchinson and Ms. Loebell, as joint
3 official liquidators of the bank. They temporarily remain
4 in being controllers of the bank under the banking law, but
5 they are now also officially liquidators.

6 THE COURT: Okay.

7 MR. RAICHT: That role as controller may go away
8 in the next day or so, but as we did flag in our initial
9 papers that this was a possibility and we are prepared to
10 file a supplement --

11 THE COURT: This is under the company's act that
12 they've been designated as the joint liquidators?

13 MR. RAICHT: Correct, Your Honor. So as a matter
14 of just cleaning up the record, we'll file a supplement in
15 the next day or so attaching the orders.

16 We are here on the preliminary injunction, Your
17 Honor, and we have received no objections from anybody. I
18 spoke with the U.S. Trustee earlier today. He has no
19 objection to the entry of the order. There are parties here
20 in the courtroom with me who wish to be heard. As I
21 understand it, we have -- no one's going to be objecting to
22 the relief.

23 THE COURT: All right. So what you should do is
24 offer in evidence there are I guess several declarations
25 that are on ECF -- filed on ECF already so we have an

1 evidentiary record. I'll ask whether anybody wishes to
2 cross examine the declarant, but let's proceed in that
3 fashion first. Just bear with me for one minute, okay?

4 (Pause)

5 THE COURT: Okay.

6 MR. RAICHT: Your Honor, just as a mechanical
7 matter, how about I put the representation or the proffer
8 into the record if there is any cross examination of the
9 witnesses, Ms. Loebell, one of the liquidators, is available
10 by phone.

11 THE COURT: Fine.

12 MR. RAICHT: Thank you, Your Honor.

13 THE COURT: Okay. I don't take proffers. So,
14 just as a general proposition. So what -- the way we'd
15 proceed is if there are several declarations that have been
16 filed, you want to offer those. If there's evidence beyond
17 those that you're proffering, you can tell me what it is but
18 my ordinary preference is not to take proffers.

19 MR. RAICHT: That's fine, Your Honor.

20 THE COURT: But to require, you know -- require
21 the declarations be filed, offer it into evidence. I asked
22 whether there were any objections. They come in. I ask
23 whether there's any who wishes to cross examine. Okay?

24 MR. RAICHT: Thank you, Your Honor. My life is
25 much easier.

1 THE COURT: Okay.

2 MR. RAICHT: Your Honor, we filed on
3 February 16th, docket number 5 in case 15-10324, the
4 declaration of Kieran Hutchinson in support of the, at the
5 time the ex parte application for temporary restraining
6 order. And after notice and a hearing, a preliminary
7 injunction under 105(a) and 1519 of the Bankruptcy Code.
8 Mr. Hutchinson's declaration sets forth the basis for which
9 a preliminary injunction should be entered by this Court and
10 we offer it into evidence, Your Honor.

11 (Debtor's Exhibit Number 5 was marked for
12 identification)

13 THE COURT: All right, any objections? All right,
14 ECF docket number 5, the Hutchinson declaration, is admitted
15 in evidence.

16 (Debtor's Exhibit Number 5 was admitted into evidence)

17 MR. RAICHT: Thank you, Your Honor.

18 THE COURT: You had a second Hutchinson
19 declaration which is ECF number 3, are you offering that as
20 well? That was in support of recognizing the -- as a
21 foreign main proceeding?

22 MR. RAICHT: Yes, Your Honor. Thank you for the
23 assistance, Your Honor. We also -- we still offer into the
24 record docket number 3 and 15-10324 filed on
25 February 16th, 2015, the declaration of Kieran Hutchinson in

1 support of petition for an order recognizing the foreign
2 main proceeding and granting the conditional relief. In the
3 declaration, Mr. Hutchinson sets forth a basis by which the
4 controllership that he was appointed under under Cayman law
5 satisfies being a foreign proceeding and also that he is a
6 foreign representative.

7 (Debtor's Exhibit Number 3 was marked for
8 identification)

9 THE COURT: All right.

10 MR. RAICHT: Your Honor, we offer that declaration
11 into evidence.

12 THE COURT: Are there any objections? All right,
13 the Hutchinson declaration which has been filed as ECF
14 docket number 3 is admitted into evidence. Okay, go ahead.

15 (Debtor's Exhibit Number 3 was admitted into evidence)

16 MR. RAICHT: Also, subsequent to Your Honor's --
17 to our hearing on February 16th, we did cause to be serve
18 within two business days after that date, the notice of this
19 preliminary injunction hearing as well as notice of the
20 ultimate hearing on recognition, an affidavit of service was
21 filed. I'm not sure if I have the number with me, but that
22 was filed -- I think actually it was earlier today we did
23 file the affidavit of service.

24 THE COURT: All right, that's ECF -- well, let's
25 see. I think it wasn't filed -- I think it was filed on

1 May 23rd, isn't that the date of service, which is ECF
2 docket number 17 -- on the 23rd, there actually are four
3 affidavits of service: ECF 14, 15, 16, and 17.

4 MR. RAICHT: Yes, Your Honor.

5 THE COURT: All right, I guess I should've asked
6 this, is there -- now having admitted the -- the two
7 Hutchinson declarations, anybody wish to cross examine? No,
8 all right, go ahead.

9 MR. RAICHT: Lastly, Your Honor -- Your Honor's
10 order setting today's hearing -- setting an objection
11 deadline of this past Monday at 9:00 a.m., we received no
12 objections. We did file earlier today a form of clean and
13 black line of the preliminary injunction order. I'm not
14 sure what order Your Honor wishes me to walk you through the
15 changes that we made or if Your Honor wishes anyone want to
16 be hear on preliminary injunction first.

17 THE COURT: Well, why don't you briefly make your
18 argument on the preliminary injunction brief?

19 MR. RAICHT: Okay.

20 THE COURT: And then we can talk to you about the
21 form of the order.

22 MR. RAICHT: Certainly.

23 THE COURT: There's one typo and there's also one
24 change that I want to --

25 MR. RAICHT: I hate typos, Your Honor.

1 THE COURT: It happens.

2 MR. RAICHT: Your Honor, consistent with the basis
3 for which we came here on the ex parte application for
4 temporary restraining order, Your Honor, we are -- we
5 continue to be fearful of depositors taking actions or steps
6 in connection with the assets that are here in the United
7 States. As we note in the original declaration, Your Honor,
8 that creditors in Cayman had been forming. Since that time
9 we have received notice of appearances from several parties
10 representing depositors that are here today. In the Cayman
11 matter, they are also receiving -- they're receiving notices
12 from parties -- from depositors.

13 I can -- I understand, Your Honor, those notices
14 from depositors are not cheerful notices. And in some
15 instances they are quite threatening, so we -- so the
16 liquidators at this point continue to believe that the risk
17 of irreparable harm continues. And as Your Honor, we noted
18 earlier that because we are now in a liquidation under the
19 company's law, we also believe that likelihood of success on
20 the merits is also fairly high. And we ask that Your Honor
21 enter the preliminary injunction order through the date in
22 which we had the hearing on recognition.

23 THE COURT: All right, does anybody wish to be
24 heard with respect to the motion for entry of a preliminary
25 injunction? All right. With respect -- I'm sorry, go

1 ahead.

2 MR. GLUCK: Yes, Your Honor, a brief note.

3 THE COURT: You have to identify yourself every
4 time you speak.

5 MR. GLUCK: Again, Warren Gluck, Holland & Knight
6 representing Saad Investment Company -- Finance Company (No.
7 5 Limited in liquidation, which we'll refer to SIFCO 5.
8 SIFCO 5 is a Cayman Company which is the subject of a
9 liquidation in Cayman. That liquidation and the liquidators
10 thereof have been recognized in the United States District
11 Court for the District of Delaware pursuant to Chapter 15
12 and there is an automatic stay in place for -- there is a
13 stay in place with respect to SIFCO's assets in the United
14 States.

15 SIFCO does have 65 million, or an excess of \$65
16 million in assets located in the United States.

17 THE COURT: Well, when you say that, it was my
18 understanding from the TRO hearing that the two accounts of
19 Caledonian Bank are in its name and not in the name of any
20 customer. I think the transcript is on -- has been filed on
21 ECF. I specifically asked that question. Is it your --

22 MR. GLUCK: That is precisely the issue that I'm
23 flagging at this time. I'd like to begin by saying we
24 support the application for provisional relief and we will
25 further be supporting the application for a Chapter 15

1 recognition. The issue we are trying to flag is that
2 ultimately, and so these -- it may involve fairly complex
3 questions that are factually predicated, but prior to any
4 final Chapter 15 order concerning the assets of the debtor
5 in this case Caledonian Bank has entered, we would like to
6 ensure that there is careful attention paid to the various
7 structure of the Caledonian Bank assets.

8 Specifically, SIFCO 5 is the -- is the subject of
9 a very significant Cayman liquidation. The \$65 million is
10 both the subject of and funding Cayman fraud litigation that
11 will be culminating in a 26 week trial shortly. There are a
12 lot of varied interests and in fact, debtors' Cayman counsel
13 is very much involved in that case.

14 CIFCO 5 had deposited the assets of the estate
15 with a predecessor of Caledonian Bank, it was called
16 Intertrust (ph), and before that Close Brother (ph).
17 Through a series of mergers and combinations, CIFCO 5's
18 segregated custody account holding \$65 million was
19 ultimately transferred to the control of Caledonian Asset
20 Management, which is a non-debtor in this case. Through
21 information received from Caledonian Bank, Caledonian
22 Securities, and Caledonian Asset Management, it had been
23 represented that the \$65 million was located in a Caledonian
24 securities account at Morgan Stanley.

25 Where we ran into some initial factual issues was

1 when we discovered that Morgan Stanley reported that there
2 was no Caledonian Securities account, rather the funds at
3 Morgan Stanley were nominally in the name of Caledonian
4 Bank, the debtor in this case.

5 At this stage, there are a number of factual
6 questions that require answering and that's why we're
7 flagging the issue. But we obviously want to ensure that
8 prior to the entry of any final order, appropriate
9 information concerning the nature and the -- of the account
10 itself, which is a segregated account, but as well as the
11 relationships between the debtor, its affiliate, Caledonian
12 Securities, and its affiliate, Caledonian Asset Management
13 is disclosed. There are a number of possible scenarios, one
14 of which is that this is simply a sub-account in the name of
15 the debtor -- excuse me, in the name of my client -- another
16 which at the other end of the spectrum --

17 THE COURT: Or not.

18 MR. GLUCK: -- is that there are a series of sub-
19 accounts with the debtor in this case being the
20 (indiscernible) account holder where its affiliate,
21 Caledonian Securities, holds yet another account and we have
22 yet another sub-account.

23 Obviously we also want to make sure that to the
24 extent money is being transferred either within or outside
25 the United States or being utilized in connection with

1 meeting obligations pursuant to the parallel SEC case to
2 maintain a million balance, that of course no inadvertence
3 violation of the stay protecting SIFCO 5's assets here in
4 the United States has made. So these are all --

5 THE COURT: Who entered the order protecting CIFCO
6 5's assets in the United States?

7 MR. GLUCK: Excuse me, sorry?

8 THE COURT: Who entered an order --

9 MR. GLUCK: The United States District Court --

10 THE COURT: -- wait, wait, wait -- protecting
11 CIFCO's assets in the United States?

12 MR. GLUCK: The United States District Court for
13 the District of Delaware, Your Honor.

14 THE COURT: Okay.

15 MR. GLUCK: That order was entered years ago prior
16 to any of this arising and various activities we've been
17 conducting within the purview of that Chapter 15 action.
18 Again, at this stage we're supporting the provisional
19 application and we're certainly supporting the Chapter 15
20 itself. But we would ask that as Chapter 15 recognition
21 draws nearer and statements that will ultimately be findings
22 of fact are made in the record concerning the assets of the
23 debtor in this case --

24 THE COURT: Well recognition ordinarily doesn't
25 involve a determination of title to specific assets. It

1 ordinarily -- recognition is just that, will the foreign
2 proceeding be recognized as a foreign main proceeding. If
3 the debtor -- if the foreign debtor, excuse me, seeks relief
4 under 1521(b) for example, it might be pertinent then. But,
5 you know, unless we saw it under 1521(a)(5) or 1521(b),
6 recognition in and of itself ordinarily would not require a
7 determination by the Court of whose money it is.

8 MR. GLUCK: That's exactly what we were trying to
9 maintain. It is often the case that in some Chapter 15
10 recognition orders there are provisions to the effect that
11 the foreign representative may maintain control and operate
12 its assets in the United States. And so just in a phrase
13 like that there's room for clarification as to what its
14 assets are.

15 THE COURT: So what I would suggest and I'm --
16 Mr. Gluck, I'm sure even without my suggestion you would do
17 so, speak -- confer with the foreign representatives counsel
18 and there won't be any surprises. If there needs to be a
19 determination made as to the ownership of specific assets,
20 there's Second Circuit law what the Bankruptcy Court is
21 supposed to do versus what would ordinarily be done in the
22 foreign Court where a foreign main proceeding is pending.
23 I'm not saying one way or the other about how that ought to
24 be resolved.

25 With respect to 1521(b), which would entrust the

1 distribution of all or part of the debtor's assets located
2 in the United States to the foreign representative or
3 another person, I'll leave words out, provided the Court is
4 satisfied with the interest of creditors in the United
5 States who are sufficiently protected. When I granted that
6 relief, for example, in Atlas Shipping, I specifically
7 provided that the funds in that case -- we're going back to
8 Denmark, were subject in determination by the Danish Court
9 as to who had a claim. I think the virtue of Chapter 15 --
10 one of the goals of Chapter 15 is to encourage uniform
11 determination of issues about ownership of property and
12 distribution of property. Certainly there are several
13 Second Circuit cases that carve out when the Court and the
14 U.S. should make a determination about whose money it is.

15 I'm not saying how this should be done here but,
16 you know, it's something in the first instance for you and
17 the foreign representative's counsel to discuss. There
18 won't be any surprises with what's written. I don't sign
19 orders in the middle of the night that resolve issues that
20 have money with one of the reasons that the preliminary
21 injunction -- the temporary restraining order at the Court's
22 request included a provision that the funds that are in the
23 United States would stay in the United States at this point.
24 And that language remains in the preliminary injunction.

25 So there will be an appropriate time to determine

1 if something different should occur.

2 MR. GLUCK: Thank, Your Honor, and we're actually
3 very much in favor of the comity angle. Ultimately, this
4 was to flag a pie value issue down the road but also that we
5 have been in touch with debtor's counsel and under the
6 circumstances, it make be that information sharing, to
7 simply clarify the issues because they are at this stage on
8 the murkier side. So let alone determinations, things that
9 are far in the future like determinations of property, but
10 even the most basic account agreements -- inter-account
11 agreements that we don't have. And so it makes it very
12 difficult for us to even understand the nature of our
13 deposit.

14 THE COURT: I always encourage informal discovery.
15 If that doesn't work, there -- you know, obviously there are
16 other ways to do it. But I would hope that there would be a
17 voluntary exchange of information, at least so that if the
18 matter winds up being presented here, you know, you're both
19 on an even informational playing field. We'll just see
20 where it goes. I understand your point.

21 MR. GLUCK: And that's really it, Your Honor.

22 THE COURT: Okay, all right.

23 MR. GLUCK: Thank you for your time.

24 THE COURT: All right, does anybody else wish to
25 be heard?

1 MR. RAICHT: Just for a moment, Your Honor. I can
2 certainly appreciate Your Honor's views and I can assure
3 Your Honor that we will be working with Mr. Gluck to resolve
4 any issues that he has and certainly get to the bottom of
5 whatever property rights may be at stake and I also tell you
6 that we will be accommodating in terms of discovery.

7 THE COURT: Okay, thank you. All right, so
8 pending before the Court is -- was originally the ex parte
9 application for temporary restraining order. And after
10 notice and a hearing, a preliminary injunction pursuant to
11 Sections 15, 19, and 105(a) of the Bankruptcy Code, that was
12 filed as ECF docket number 4. And the TRO was previously
13 entered, today was the day scheduled for the preliminary
14 injunction hearing. The application is supported by the
15 declaration of Kieran Hutchinson. There are actually two
16 declarations that have been admitted into evidence. They're
17 at ECF docket number 3 and ECF docket number 5. No party
18 has filed an objection to the application.

19 I'll skip a description of the background. I
20 think it's well set forth in the documents that have been
21 filed previously in the case. I certainly want to take note
22 of the SEC's action in the Southern District of New York
23 before Judge Pauley and the preliminary injunction that
24 Judge Pauley entered. It was modified on consent. The
25 preliminary injunction that's proposed here carves out the

1 effect of Judge Pauley's preliminary injunction. It also
2 expressly provides that any police or regulatory actions are
3 not stayed by virtue of the injunction that's sought here.

4 Section 1519 of the Bankruptcy Code sets forth a
5 provisional relief that a Court may grant during the gap
6 period, which is the filing of the Chapter 15 petition and a
7 Court's determination of whether to grant recognition to the
8 relevant foreign proceeding. See Vitro S.A.B. to C.V., the
9 ACP master limited, in re Vitro S.A.B. to C.V., 455 BR 571
10 at 578 (Bankruptcy Court, Northern District of Texas, 2011).

11 Pursuant to Section 1519 of the Bankruptcy Code,
12 "from the time of filing a petition for recognition until a
13 Court rules on a petition, the Court may at the request of
14 the foreign representative, where relief is urgently needed
15 to protect the assets of the debtor or interest of the
16 creditors, grant relief of a provisional nature including:
17 one, staying execution against the debtor's assets." I'll
18 stop there because that's what's being sought here.
19 Obviously that section goes on.

20 In the Second Circuit, a party seeking a
21 preliminary injunction must demonstrate "a) irreparable
22 harm; and b) either: one, likelihood of success on the
23 merits; or two, sufficiently serious questions going to the
24 merits to make them a fair ground for litigation and a
25 balance of hardships tipping decidedly toward the party

1 requesting the preliminary relief." Citigroup Global
2 Markets Inc. v. VCG, Special Opportunities Master Fund
3 Limited, 598 F.3d 30 at 35 (Second Circuit, 2010).

4 The Court has considered and reviewed the
5 application, the two declarations, the Chapter 15 petition.
6 And based on the Court's review, the Court finds and
7 concludes that the petitioner's application for preliminary
8 injunction is granted. The Court finds that the petitioners
9 have demonstrated that without a stay on execution against a
10 debtor's assets in the United States and the protections of
11 Section 362 of the Bankruptcy Code, there is a material risk
12 the debtor will suffer irreparable harm to the value of its
13 business assets of property as a result of potential
14 enforcement and collection efforts of creditors pending
15 resolution of the Chapter 15 petition.

16 The declaration set forth that certain of the
17 debtor's depositors have already retained counsel and
18 without relief, the relief sought in the application is
19 depositors may initiate lawsuits seeking distributions that
20 would result in a piecemeal depletion of the debtor's assets
21 and would interfere with the orderly determination of claims
22 and a fair distribution of assets.

23 The Court also finds that the petitioners have
24 demonstrated a substantial likelihood of success on the
25 merits insofar as they have shown that the Court is likely

1 to grant recognition of the Cayman proceeding as a foreign
2 main proceeding. To qualify as a foreign main proceeding,
3 the petitioners must establish: one, that the Cayman
4 proceeding is a foreign proceeding within the meaning of
5 Section 101(23) of the Bankruptcy Code and that the Cayman
6 proceeding is pending in the country where the debtor has
7 its center of main interest. See Section 1517 of the
8 Bankruptcy Code.

9 First the petitioners have demonstrated that the
10 Cayman proceeding appears to be a foreign main proceeding as
11 that term is defined in Section 101(23) of the Bankruptcy
12 Code. The Cayman proceeding is a collective judicial
13 proceeding because the petitioners have the power to, among
14 other things, resolve and determine the rights of all the
15 debtors, claimants, and stakeholders. The Cayman proceeding
16 is subject to control or supervision by foreign court.

17 Second, the petitioners have demonstrated that the
18 Cayman proceeding is pending in the country where the debtor
19 has its center of main interest, the Cayman Islands. Under
20 Section 1516(c) of the Bankruptcy Code "absent evidence to
21 the contrary, a debtor's registered office is presumed to be
22 the center of the debtor's main interest."

23 To determine a debtor's center of main interest,
24 Courts in this circuit also look to a non-exclusive list of
25 factors including "the location of the debtor's

1 headquarters, the location of those who actually manage the
2 debtor, the location of the debtor's primary assets, the
3 location of the majority of the debtor's creditors or a
4 majority of the creditors who would be affected by the case,
5 and/or the jurisdiction whose law would apply to most
6 disputes." See Morning Mist Holdings Limited v. Krys, in re
7 Fairfield Sentry Limited, 714 F.3d 127 at 137 (Second
8 Circuit, 2013).

9 Not only is the debtor's registered office in the
10 Cayman Islands, it has always been headquartered in the
11 Cayman Islands. All of its employees were located there and
12 it always held itself out as a Cayman Islands' bank. For
13 these reasons, the Court grants the petitioner's application
14 for preliminary injunction.

15 Now with respect to the order that you submitted
16 -- the revised order that you submitted, on the first page
17 on the fourth line, the word should be commenced rather than
18 commended.

19 MR. RAICHT: Thank you, Your Honor.

20 THE COURT: On page 2 -- I'm looking at the
21 blacklines -- in paragraph 2, Romanette I, Romanette 1, in
22 the last line of that subsection, enforcing liens against
23 the assets of the debtors at -- located within the
24 territorial jurisdiction of the United States. I think
25 that's really implied by Romanette 3, but to make it clear

1 that this Court's authority in a Chapter 15 case relates to
2 assets located in the territorial jurisdiction of the United
3 States. Other than that, I did not have any other changes.

4 MR. RAICHT: Thank you, Your Honor, as I mentioned
5 to Your Honor before, the changes that we made include
6 Romenette 3 which is to make clear the debtor's
7 (indiscernible) are located within -- territorial
8 jurisdiction -- would stay here to conform with the
9 temporary restraining order. And on page 2, number 2, I
10 just made it more clear in terms of when the -- how long
11 this injunction order would last. So we'll -- we can make
12 the changes Your Honor and --

13 THE COURT: Yeah, if -- when we finish, I mean,
14 because we have -- you e-mailed a copy of the proposed order
15 to us, one of your colleagues can just work with one of my
16 law clerks and make sure that the changes that -- I just
17 have the two changes, we can include it. You don't have to
18 send another -- unless you have a computer with you to make
19 the changes, we can do it and get the order entered
20 promptly.

21 MR. RAICHT: If Your Honor doesn't mind using your
22 computers, we're happy to do it.

23 THE COURT: Just talk to my law clerks when we're
24 finished and we'll get the changes made.

25 MR. RAICHT: Your Honor, a housekeeping issue if I

1 may?

2 THE COURT: Sure.

3 MR. RAICHT: At the preliminary -- sorry, at the
4 TRO hearing, Your Honor, we had filed a motion for waiver of
5 notice and Your Honor had commented at the end of that
6 hearing that perhaps I might take another run at convincing
7 Your Honor --

8 THE COURT: Right.

9 MR. RAICHT: -- and so I've spoken with the U.S.
10 Trustee. We're in discussions of trying to find a solution
11 that works. We're not there yet, but we are talking and I
12 -- and with Your Honor's indulgence, it might make the most
13 sense if we teed that motion up for a specific date, either
14 a holding date or a hearing date so we can come back.

15 THE COURT: Good idea. We ought to -- there's
16 actually something wrong with my computer. I can't get the
17 calendar program open for some reason. So maybe one of my
18 law clerks can. Why don't you -- when we adjourn, why don't
19 you talk to Jason and Stephanie and see if we can come up
20 with a date for you. I agree with you on trying to get this
21 resolved with the U.S. Trustee. On sealing matters, I'm
22 generally given substantial deference to the U.S. Trustee
23 who takes a very strong position on what 107(b) of the
24 Bankruptcy Code means. So let's -- I'd like to try and let
25 you see if you can work it out, but why don't you talk with

1 Jason and Stephanie and get a date.

2 MR. RAICHT: Thank you, Your Honor.

3 THE COURT: Okay, what was the -- what's the date
4 for our --

5 MR. RAICHT: March 17th, Your Honor.

6 THE COURT: I'm sorry.

7 MR. RAICHT: March 17th is --

8 THE COURT: You know, I would say let's put this
9 on March 17th.

10 MR. RAICHT: That's fine, Your Honor.

11 THE COURT: Okay, just -- let's do it. I don't
12 want to have you unnecessarily --

13 MR. RAICHT: All right, thank you.

14 THE COURT: -- coming into Court. Obviously if
15 you need relief on something before then, you'll let us
16 know.

17 MR. RAICHT: Your Honor, at the least hearing
18 because we had cited the law in Cayman Island regarding
19 confidentiality --

20 THE COURT: Yes, and you were going to --

21 MR. RAICHT: I have a copy, Your Honor, and I --

22 THE COURT: Okay.

23 MR. RAICHT: -- have just given a copy to the U.S.
24 Trustee if Your Honor would like a copy.

25 THE COURT: I would. I would. You can give it to

1 my law clerk when we're done. Okay. All right, we're
2 adjourned. Thank you very much.

3 MR. RAICHT: Thank you, Your Honor.

4 (Whereupon these proceedings were concluded at 2:33 PM)

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I N D E X

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PARTY	NO	DESCRIPTION	ID.	EVID.
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preliminary injunction.		

C E R T I F I C A T I O N

I, Jamie Gallagher, certify that the foregoing transcript is
a true and accurate record of the proceedings.

Jamie
Gallagher

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